



UNITED STATES ENVIRONMENTAL PROTECTION

REGION 8  
999 18<sup>TH</sup> STREET - SUITE 500  
DENVER, CO 80202-2466

SDMS Document ID



1001472

AUG 3 - 2001

Ref: 8ENF-T

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Defense Technology Corporation Of America  
c/o David DuBay  
Director of Research  
P.O. Box 248  
Casper, WY 82601

Re: Request for Information for the Casper Tear Gas  
Site Located at 9125 Neosho Road, Casper, WY 82604

Dear Mr. DuBay:

The United States Environmental Protection Agency, Region VIII ("EPA"), is currently investigating the source, extent, and nature of the release or threatened release of hazardous substances, pollutants or contaminants, or hazardous wastes on or about the Defense Technology Corporation Of America (Def-Tech) facility, "Casper Tear Gas Site", located at 9125 Neosho Road, Casper, WY (the "Site"). This investigation requires inquiry into the identification, nature, and amount of materials that have been generated, treated, stored, or disposed of at the Site, or have been transported to the Site for manufacture, treatment, storage, or disposal.

Under the authority of Section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9604, as amended (hereinafter referred to as "CERCLA"), your response to the enclosed Information Request is mandatory. If you do not respond fully and truthfully to the Request within forty-five (45) days from date of this letter, or justify why you cannot respond within that time frame, you may be subject to an enforcement action by EPA. CERCLA permits EPA to impose penalties of up to \$27,500 for each day a response is late. Please be advised that providing false, fictitious, or fraudulent statements or representations may subject you to criminal penalties under 18 U.S.C. § 1001.

Pursuant to Section 103(d) of CERCLA, 42 U.S.C. § 9603(d), it is unlawful for any person to knowingly destroy, mutilate, erase, dispose of, conceal, or otherwise render unavailable or unreadable or falsify any record which is or may be responsive to the Information Request. You are also asked to provide additional information to EPA that is relative to this matter, if and when new documents or information become available to you.

The response to the Information Request must be accompanied by a notarized certificate



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that is signed and dated by the person who is authorized to respond. The notarized certificate must state that the response submitted to EPA is complete and contains all documents and information responsive to the Information Request that are known to you following a complete and thorough review of all available information and sources. A suggested format for the notarized certificate is included with this letter as Enclosure 2.

Your response to the Information Request should be mailed to:

Gregory J. Phoebe, 8ENF-T  
U.S. Environmental Protection Agency  
Technical Enforcement Program  
999 18th Street, Suite 300  
Denver, CO 80202-2466

Regulations concerning confidentiality of business information are set forth in 40 C.F.R. Part 2, Subpart B. In addition, Section 104(e)(7) of CERCLA contains additional restrictions concerning claims of confidentiality. Please see instruction #5 of Enclosure 1 for further information on how to make a claim of confidentiality.

Due to the potential legal consequences should you not provide the information requested, EPA strongly encourages that this matter be given your immediate attention. The response to the Information Request must be submitted within the time period specified above. If you have any questions regarding the information being requested, you may discuss them with EPA prior to your submission of a response. Please direct any legal matters to Mia Wood, Enforcement Attorney, at (303) 312-6554. Gregory J. Phoebe, Technical Enforcement Program, is also available to help you. Mr. Phoebe can be reached at (303) 312-6466.

Thank you for your cooperation in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Sharon L. Kercher", with a long horizontal flourish extending to the right.

Sharon L. Kercher, Director  
Technical Enforcement Program  
Office of Enforcement, Compliance,  
and Environmental Justice

Enclosures: 1 - Information Request  
2 - Notarized Certificate

**FIRST INFORMATION REQUEST**

**CASPER TEAR GAS SITE  
9125 Neosho Road  
Casper, Wyoming**

**INSTRUCTIONS**

1. Please provide a separate narrative response to each and every question and subpart of a question in this Information Request.
2. Please number each answer with the same number of the question being responded to.
3. If, after you have submitted the requested information to EPA, you should become aware of other information or documents that is relevant to the information being sought, you must provide that information or documentation to EPA. In addition, if you should later discover that any portion of the information provided to EPA is false or misrepresents the truth, you must notify EPA of this fact as soon as possible and provide a corrected response.
4. For each document submitted in response to this Information Request, please indicate the number of the question to which it responds.
5. The information requested herein must be provided even though it may include possibly confidential information or trade secrets. Under the requirements of Sections 104(e)(7)(E) and (F), 42 U.S.C. §§ 9604(e)(7)(E) and (F) of CERCLA, as amended by SARA, Section 3007(b), 42 U.S.C. § 6927(b) of the Resource Conservation and Recovery Act (RCRA), and 40 C.F.R. Part 2.203(b), a confidentiality claim covering part or all of the information requested may be asserted by attaching a cover sheet to the information that clearly states "trade secret," or "proprietary" or "company confidential." Information covered by such a claim will be disclosed by EPA only to the extent, and only by means of the procedures set forth in 40 C.F.R. Part 2, 41 Fed. Reg. 36,902 (1976), amended at 43 Fed. Reg. 40,000 (1978), and 50 Fed. Reg. 51,661 (1985).

If no such claim accompanies the information when it is received by EPA, it may be made available to the public without further notice. The above-cited regulations should be carefully read before asserting a confidentiality claim, since certain categories of information are not properly the subject of such a claim.
6. Your response must be based on a review of all information available, including documents, interviews, and your best recollection of the events. If, in answering any of the following questions, information was obtained through employee interviews, please indicate this in your letter and provide the names of the employees interviewed.

## FIRST INFORMATION REQUEST

### DEFINITIONS

The following definitions shall apply to certain words as they appear in this Information Request:

1. The term "**you**" means the addressee of this request Defense Technology Corporation Of America (Def-Tech), the addressee's officers, managers, employees, contractors, trustees, partners, predecessors, successors, assigns, and agents.
2. The term "**person**" shall have the same definition as Section 101(21), 42 U.S.C. § 9601(21) of CERCLA. "**Person**" may mean an individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, the United States Government, state, municipality, commission, political subdivision of a state, or any interstate body.
3. The term "**the Site**" shall mean and include the property on or about 9125 Neosho Road, Casper, Wyoming and any areas adjacent to or near this property that have been, or may have been, impacted by hazardous wastes, substances, pollutants or contaminants.
4. The term "**the Facility**" shall mean and include the Def-Tech tear gas production establishment located on and about 9125 Neosho Road, Casper, Wyoming.
5. The term "**hazardous substance**" shall have the same definition as that contained in Section 101(14), 42 U.S.C. § 9601(14) of CERCLA, and includes any mixtures of such hazardous substances with any other substances, including petroleum products.
6. The term "**hazardous chemical**" shall have the same definition as that contained in 29 CFR Part 1910.1200 (OSHA's Hazard Communication Standard), meaning any chemical which is a physical or a health hazard.
7. The term "**pollutant**" or "**contaminant**" shall have the same definition as that contained in Section 101(33), 42 U.S.C. § 9601(33) of CERCLA, and includes any mixtures of such pollutants or contaminants with any other substances, including petroleum products.
8. The term "**hazardous waste**" shall have the same definition as that contained in Section 1004(5) of RCRA.
9. The term "**solid waste**" shall have the same definition as that contained in Section 1004(27) of RCRA.
10. The term "**material(s)**" shall mean all substances that have been generated, treated, stored, or disposed of, or otherwise handled at, or transported to, the Site. Material(s) includes, but is not limited to, all hazardous substances, hazardous chemicals, pollutants or

contaminants, hazardous wastes, and solid wastes.

11. The term "**hazardous material(s)**" shall mean all hazardous substances, hazardous chemicals, pollutants or contaminants, hazardous wastes including hazardous solid wastes.

12. The term "**non-hazardous material(s)**" shall mean all material(s), excluding hazardous substances, pollutants or contaminants, and hazardous waste.

13. With respect to a natural person, the term "**identify**" means to set forth the person's name, present or last known business address and business telephone number, present or last known home address and home telephone number, and present or last known job title, position or business.

14. With respect to a corporation, partnership, business trust or other association or business entity (including a sole proprietorship), the term "**identify**" means to set forth its full name, address, legal form (e.g., corporation, partnership, etc.), organization, if any, and a brief description of its business.

15. With respect to a document, the term "**identify**" means to provide its customary business description, its date, its number, if any (e.g., invoice or purchase order number), and the substance or the subject matter.

16. The term "**release**" has the same definition as that contained in Section 101(22), 42 U.S.C. § 9601(22) of CERCLA, and includes any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including the abandonment or discharging of barrels, containers, and other closed receptacles containing any hazardous substance, or pollutant or contaminant.

17. The term "**document(s)**" shall mean any writing, recording, or stored information, and includes, but is not limited to, writings of any kind, formal or informal, whether or not wholly or partially in handwriting, including by way of illustration, and not by way of limitation, any invoice, manifest, bill of lading, receipt, endorsement, check, bank draft, canceled check, deposit slip, withdrawal slip, order, correspondence, record book, minutes, memorandum of telephone and other conversations, including meetings, agreements and the like, diary, calendar, desk pad, scrapbook, notebook, bulletin, circular, form, pamphlet, statement, journal, postcard, letter, telegram, telex, fax, e-mail, report, notice, message, analysis, comparison, graph, chart, interoffice or intraoffice communications, photostat or other copy of any documents, microfilm or other film record, any photograph, sound recording or any type of device, any punch card, disc or disc pack; any tape or other type of memory generally associated with computers and data processing (together with the programming instructions and other written material necessary to use such punch card, disc, or disc pack, tape or other type of memory and together with printouts of such punch card, disc, or disc pack, tape or other type of memory); and, (a) every copy of each document which is not an exact duplicate of a document which is produced, (b) every copy which

has any writing, figure or notation, annotation or the like on it, (c) drafts, (d) attachments to or enclosures with any document, and (e) every document referred to in any other document.

18. The terms "**and**" and "**or**" shall be interpreted to be together or separately, as necessary, to bring within the scope of this Information Request any information which might otherwise be construed to be outside its scope.

19. The term "**arrangement**" means every separate contract or other agreement, whether oral or written, between two or more persons.

20. The terms "**transaction**" and "**transact**" mean any sale, transfer, giving, delivery, change in ownership, or change in possession.

21. The term "**property interest**" means any interest in property including, but not limited to, any ownership interest (including an easement or right-of-way), any interest in the rental of property, any interest in a corporation that owns or rents, or owned or rented property, and any interest as either the trustee or beneficiary of trust that owns or rents, or owned or rented, property.

22. All questions asked in the past tense should be interpreted to apply to the present as well.

23. Words in the masculine shall be construed in the feminine, and vice versa, and words in the singular shall be construed in the plural, and vice versa, where appropriate, in the context of a particular question or questions.

24. All terms not defined herein shall have their ordinary meaning, unless such terms are defined in CERCLA, 42 U.S.C. §§ 9601, et seq.; RCRA, 42 U.S.C. §§ 6901, et seq.; or their regulations found at 40 C.F.R. Part 300 or 40 C.F.R. Parts 260, et seq., respectively, in which case the statutory or regulatory definitions shall apply.

## **FIRST INFORMATION REQUEST**

### **QUESTIONS**

The following questions relate to the tear gas production Facility located on and about 9125 Neosho Road, Casper, WY.

1. Provide the name, current address and phone number of the person answering these questions.
2. Provide the name, current address and phone number of all persons consulted in the preparation of the answers to these questions.
3. Provide the name, title, address, telephone number and FAX number of the person to whom future correspondence regarding this matter should be directed, if other than the person identified in question #1.
4. During what period of time (give dates) has, Respondent, owned this Facility?
5. During what period of time (give dates) has, Respondent, conducted business at the Site?
6. Describe, in narrative form, all transactions in which Respondent acquired or disposed of any property interest at the Site. Provide the names, current addresses and phone numbers of all who were parties to these transactions.
7. Provide copies of all documents that evidence and describe the manner in which, Respondent, acquired or disposed of any property interests in the Site including, but not limited to, deeds, contracts, leases, patents, grants, and any maps depicting the subject property acquired or disposed of.
8. Describe Def-Tech's past and present business operations conducted at the Facility.
9. Identify and fully describe, in narrative form, all processes employed by Def-Tech, in the normal course of its business operations. Identify, contracts, if any, Respondent may have with any agency or agent of the U.S. Government or other parties at the Site which may entail "Confidentiality" requirements.
10. Describe any products that in the past have been or are currently being manufactured, processed, or treated (e.g. including but not limited to, CS Gas, CN Gas, Tear Gas, Pepper

Spray) as part of the business operations described in question #8 above. Additionally, provide information relative to all chemical carriers used to disperse these products (e.g. methylene chloride, terephthalic acid etc.).

11. Describe the chemical content, characteristics, physical state (e.g., solid, liquid), quantity (estimate volume and weight on a monthly and annual basis), and location of all hazardous materials stored at, used in, or resulting from operations at the Site. Provide a copy of your facility's Process Hazard Analysis, the original and subsequent revalidated versions.

12. Identify all waste materials that result from operations at the Facility, and describe any current or past disposal practices relative to waste materials that have occurred at the Facility. This should include where the disposals occurred, the method used for disposal, and the date(s) when each disposal occurred.

13. Identify, fires, if any, that have occurred at the facility. Include date(s) of the fire(s), parties responding to fire(s), portion(s) of the facility affected by the fire, and quantity and description of all materials (e.g chemicals which were released as a result of the fire(s), and any environmental testing or response taken in response to the fire(s).

14. Identify, all dates, where CS Gas, CN Gas, Pepper Gas, Tear Gas or other materials were tested outdoors at the Site. Provide all information and documentation relative to the description, quantity, chemical content, and location (within the Site) where such tests occurred. Provide all information and documentation relative to any sampling taken during or subsequent to any such testing. Additionally, provide information relative to all chemical carriers used to disperse these products (e.g. methylene chloride, terephthalic acid etc.).

15. Identify, whether Def-Tech testing personnel wore personnel protection equipment (if so identify type of equipment) or were required to evacuate the area and is so for what period of time. Were nearby residents notified of the testing and provided the opportunity to evacuate the area?

16. Provide all information and documentation relative to notification of the WY Department of Environmental Quality or other regulatory agency in connection with any of these tests identified in question #14 above.

17. For each and every prior owner, operator, lessor, or lessee of any portion of the Facility (other than Respondent) known to you:

- a. Identify the person [provide name, current address and phone number] and the nature of their business operations at the Site;
- b. Describe the portion of the Site that was owned, operated, or leased by each person identified above, and give the dates during which they owned, operated, or leased a portion of the Site;



- c. Provide copies of all documents that evidence or relate to such operation, or lease, including, but not limited to, purchase and sales agreements, leases, etc.;
- d. Provide all evidence that hazardous materials were released or threatened to be released at the Site during the period they owned the Site; and,
- e. State each and every name, other than Def-Tech., under which business was conducted at the Site.

18. Describe, and where available, provide maps and/or construction drawings that describe the physical characteristics of the Facility including, but not limited to, the following:

- a. Surface structures (e.g., buildings, tanks, etc.) including dates constructed;
- b. Groundwater wells, including drilling logs;
- c. Underground and aboveground storage tanks;
- d. Past and present storm water drainage system(s), sanitary sewer system(s), including septic tank(s) and subsurface disposal field(s);
- e. Any and all additions, demolitions, or changes of any kind to physical structures on, under, or about the Site, or to the property itself (e.g., excavation work). State the dates on which such changes occurred; and,
- f. Routing of all underground utility lines, such as gas, water, sewer, power, and phone.
- g. A current and complete Piping & Instrumentation Diagram.

19. EPA was advised that the WY State Department of Environmental Quality staff had received complaints that at a spring fed pond near the Site (vicinity of Hopi and Ormsby Road) has been contaminated resulting in death of pond "mud puppies" and that livestock and domestic animals near the facility were sick, allegedly from releases from the Site. Additionally, Site neighbors have complained of various health ailments, which they also attribute to releases from Site operations. It is requested that Respondent provide all information and documents that relate to any such complaints as well as all documents (including environmental reports and sampling data) or any other information or documentation related to Respondent's investigations of any health or environmental complaints relative to the Site.

20. Describe all leaks, spills or releases, or threats of release of any kind (e.g. air emissions, including fugitive air emissions, chemical spills or disposals), of any hazardous substances, pollutants or contaminants that have occurred or may occur at or from the Site, including, but not limited to:

- a. When the releases occurred or may occur;
- b. How the releases occurred or may occur;
- c. What materials were released or may be released? (The answer to this question shall include the common name, the chemical name, grade, and chemical composition of the substance. If the substance is known to include impurities or manufacturing contaminants, include these also);
- d. What amount of each such hazardous material was released;
- e. Where such releases occurred or may occur;
- f. Any and all activities undertaken in response to each such release or threatened release;
- g. Any and all investigations of the circumstances, nature, extent or location of each such release or threat of release, including the results of any soil, water (ground and surface), or air testing that was undertaken; and,
- h. All persons with information relating to paragraphs a. through g. of this question.

21. EPA has received information from the WY State Department Of Environmental Quality (DEQ) of odors emanating from the facility which have been described as "cooked almonds". This type of odor has been associated with the chemical "cyanide". Please detail if any of the materials used in facility operations may have resulted in the release or potential release of compounds containing cyanide (e.g. malanonitrile). If so, fully detail any such releases (including but not limited to fugitive air emissions) and response, if any, to such releases. If not, detail what material(s) may have resulted in such an odor (It should be noted upon one occasion when such an odor was noted the facility was closed and it was suspected that only the "Drying Room" would have been in operation).

22. Wyoming DEQ, has advised EPA that on or before July 21, 2001, the company placed a open tank or container possibly containing CS or residues of CS outdoors during the time the drying room processes were being modified. Provide a description of the tank/container, the date the tank/container was placed outdoors, the contents and quantity of the tank/container, the purpose for placing the tank/container outdoors, the date the tank/container was covered or taken indoors, an estimate of the quantity of any materials that may have volatilized to the atmosphere, etc.

23. Fully, describe air emission controls maintained at the facility. Detail whether Respondent has experienced any problems with any facility emission control equipment, including but not limited to, the facility "Drying Room". Detail whether these problems may have resulted in releases of materials (e.g. fugitive air emissions) from the facility.

24. Provide all air sampling data or other environmental reports Respondent has obtained relative to air sampling or environmental conditions at or around the Site.

25. Identify, all inspections performed by OSHA or other regulatory agencies (e.g fire department, ATF, health department) at the Site. Provide information and documentation of the results of these inspections and, if any, details of any resulting citations, penalties or legal action.

26. Were there ever any above-ground or underground storage tanks now, or known by you to have previously been, on the Site? If so, answer the following questions for each and every tank.

- a. What was the date of installation of the tank at the Site;
- b. What date(s) (or time frame) was/were the tank(s) removed from the Site;
- c. What is/was the size and capacity of the tank;
- d. If the tank is/was underground, indicate the depth at which it was installed;
- e. What materials have been stored in the tank, and the dates during which those materials were stored in the tank;
- f. Describe any spill or leak that has occurred in connection with the operation of the tank. For each spill or leak, include the date, the material, the amount, the cause, and the efforts made to contain and clean up the material spilled or leaked. Provide any reports filed with any state, local, or federal agency regarding any spill or leak; and,
- g. Describe all tests that have been conducted on the integrity of the tank and any pipes connected to it, and provide copies of all reports prepared showing the results of those tests.

27. State how you conducted or permitted the generation, transportation, storage, treatment, or disposal of any hazardous substance at the Facility. Describe all such activities that you conducted or permitted and identify any permits required for such operations.

28. State how you may have caused, or contributed in any way whatsoever to, the release or threatened release of any hazardous substance at the Facility. Describe the release or threat of release and its cause.

29. State whether actions of other parties operating at the Site have resulted in contamination. If so, identify these parties and detail what actions, if any, you took to clean up or prevent the release of any contamination caused by these previous owner(s) or operator(s) of the Site.

30. Describe any specialized knowledge and/or experience you may have had regarding the

any environmental contamination that may exist at the Site.

31. Identify all persons who may be responsible for any liabilities arising from, or relating to, the release or threatened release of hazardous substances at the Site, including, but not limited to, any predecessors, successors and individuals [provide name(s), current address(es) and phone number(s)].

32. Identify the current State of Incorporation of Def-Tech and list its corporate officers.

33. Detail any direct, intermediate or ultimate corporate parent of Def-Tech, from inception of operations to current.

34. Identify manager(s)[provide name(s), current address(es) and phone number(s)] of Site from inception of operations to current and list the company with whom they were employed.

35. For each and every question contained herein, if information or documents responsive to this Information Request are not in your possession, custody or control, identify the persons [provide name(s), current address(es) and phone number(s)] from whom such information or documents may be obtained.

36. If you have reason to believe that there may be persons able to provide a more detailed or complete response to any question contained herein or who may be able to provide additional responsive documents, identify those persons and the additional information or documents that they may have [provide name(s), current address(es) and phone number(s)].

37. For each and every question contained herein, identify all documents that contain information responsive to the question and provide accurate copies of all such documents.

NOTARIZED CERTIFICATE

I, \_\_\_\_\_, having been duly sworn and being of legal age, hereby state:

1. I am the person authorized by \_\_\_\_\_  
to respond to the Environmental Protection Agency's (EPA's) Information Request  
concerning the Casper Tear Gas Site in Casper, WY.
2. I have made a complete and thorough review of all documents, information, and sources  
relevant to the Information Request.
3. I hereby certify that the attached response to EPA's Information Request is complete and  
contains all information and documents responsive to the Information Request.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Title)

Subscribed and sworn to me this \_\_\_\_\_ day of \_\_\_\_\_, 2001.

[SEAL]

\_\_\_\_\_  
Notary Public

My Commission Expires \_\_\_\_\_

My address is \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_